

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION
Approval of Amendment of Rule regarding extension of
telephone facilities to new real estate developments
LSA Document 03-194(F)
IURC RM 03-02

Upon prior publication of notice, and public hearing having been held on December 16, 2003, at 10:00 a.m. as required by the provisions of I.C. 4-22-2-1, *et seq.*, the Indiana Utility Regulatory Commission, on March 3, 2004, at 1:30 p.m., EST in Room E306, Indiana Government Center-South, Indianapolis, Indiana at which time a majority of members of said Commission were present, adopted the foregoing rule.

The Secretary is hereby directed to submit five (5) copies of the aforesaid rules to the Attorney General of Indiana, for his approval of same, and thereafter file one (1) duplicate approved copy with the Secretary of State.

ABSENT

William D. McCarty, Chairman

David W. Hadley
David W. Hadley, Commissioner

Larry S. Landis
Larry S. Landis, Commissioner

Judith G. Ripley
Judith G. Ripley, Commissioner

David E. Ziegner
David E. Ziegner, Commissioner

ATTEST:

Nancy E. Manley
Nancy Manley, Secretary to the Commission

Date: **MAR 11 2004**

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Final Rule LSA Document #03-194

DIGEST

Amends 170 IAC 7-1.2-10 regarding extension of telephone facilities for new real estate developments. Effective 30 days after filing with the secretary of state.

170 IAC 7-1.2-10

SECTION 1. 170 IAC 7-1.2-10 IS AMENDED TO READ AS FOLLOWS:

170 IAC 7-1.2-10 Extension of facilities

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 10. (a) Each LEC shall include in its tariffs filed with the commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to provide service to customer applicants located within the LEC's certificated service territory. The LEC's policies for service extensions shall conform to construction charges for extension of facilities required to provide local service and will not apply to facilities located on public rights-of-way, except where:

- (1) unusual costs, as defined in tariffs or otherwise determined by the commission, are involved in the establishment of service;
- (2) the installation is for a temporary or semipermanent purpose; or
- (3) the facilities cannot be used for other general telephone purposes if service to the customer applicant is discontinued.

(b) Provided the type of facilities and method of installation are the type normally used by the LEC to provide the requested service, construction charges for facilities to be located on private rights-of-way in order to satisfy ~~an~~ a customer applicant's request for local service shall not apply to the following:

- (1) The first one-tenth (0.1) of a mile for business service.
- (2) The first two-tenths (0.2) of a mile for residential service.

If a customer applicant requests a type of facility or method of installation that differs from the norm, the LEC shall charge the customer applicant for the difference in cost between the two (2) types of construction. The customer applicant shall also be responsible for providing necessary private rights-of-way if construction is required in areas where the right of eminent domain does not exist. The provision of any facilities beyond the first one-tenth (0.1) of a mile for business service and two-tenths (0.2) of a mile for residential service shall be charged to the customer applicant at cost.

(c) Requirements for new real estate developments are as follows:

- (1) If a developer requests the installation of telephone facilities for a new real estate development,

the developer shall have the property:

(A) cleared of trees, tree stumps, paving, and other obstructions necessary for installation of the telephone facilities;

(B) staked to show property lines and final grade; and

(C) graded to within six (6) inches of final grade;

all at no charge to the LEC.

(2) The LEC shall also have the right to require a deposit from the developer to cover the full cost of constructing the requested facilities in accordance with applicable rules, regulations, and tariffs approved by the commission. **The requirements for charging a deposit are as follows:**

(A) **Each LEC shall file with the commission for approval, tariff provisions setting forth the conditions under which it will make line extensions to real estate developments.**

(B) **Such filing shall include line extension procedures, a specific explanation regarding how deposits will be calculated and how cost support will be presented.**

(C) **Upon application, each LEC shall provide an information sheet to developers describing line extension procedures and providing cost support as approved in the LEC's tariff on file with the commission.**

(D) **The LEC shall refund the deposit to the developer on a pro rata basis as customers connect to the newly extended facilities. lots are sold. The developer shall notify and provide documentation to the LEC as lots are sold. Such refunds shall be paid to the developer on a quarterly basis or at longer intervals if the developer and the LEC so agree. If refunds are returned quarterly, no interest shall be paid. If refunds are returned annually, the refundable portion of the deposit shall bear interest at the rate of six percent (6%) per annum from the date the first customer is connected to the newly extended facilities. as prescribed in 170 IAC 7-1.3-3(h).**

~~(2)~~ (3) Any amount that is still owed to the LEC under this subsection or subsection (a) or (b) may be withheld when the deposit is returned to the developer.

~~(3)~~ (4) Any portion of the deposit that has not been refunded five (5) years from the date that the LEC is first ready to render service from the extension may be retained by the LEC as liquidated damages.

~~(4)~~ (5) When customers request pole attachments to avoid new construction costs, the LEC may charge the customer all expenses and rental charges associated with the attachments.

~~(5)~~ (6) Except as provided in filed tariffs, the ownership of all facilities constructed, as herein provided, shall be vested in the LEC.

~~(6)~~ (7) Except as provided in this subsection, no portion of the expense assessed against the customer shall be subject to later refund.

(d) Nothing in this rule shall be construed as prohibiting any LEC from establishing an extension policy more favorable to customers than that contained herein, **as long as provided such policy complies with the following requirements:**

(1) No discrimination is practiced between customers. ~~under the same or substantially the same circumstances and conditions.~~

(2) **The policy has been approved and is included in the LEC's tariffs on file with the commission.**

(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-10; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4061, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003,

Approval of the Amendment of Rule

170 IAC 7-1.2-10
LSA Document #03-194 (F)
IURC RM 03-02

Approved as to legality,

today: _____

Steve Carter
Attorney General of Indiana

Approved,

today: _____

Joseph E. Kernan
Governor of Indiana

Filed, today: _____

Todd Rokita
Secretary of State